Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

Vol. 23 APRIL 5, 1989 No. 14

This issue contains:

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 89–38)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR FEBRUARY 1989

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday: Monday, February 20, 1989.

Greece drachma:

February 1, 1989	$0.006430
February 2, 1989	.006431
February 3, 1989	.006390
February 6, 1989	.006402
February 7, 1989	.006421
February 8, 1989	.006420
February 9, 1989	.006452
February 10, 1989	.006462
February 13, 1989	.006408
February 14, 1989	.006443
February 15, 1989	.006524
February 16, 1989	.006479
February 17, 1989	.006499
February 21, 1989	.006481
February 22, 1989	.006485
February 23, 1989	.006532
February 24, 1989	.006508
February 27, 1989	.006538
February 28, 1989	.006515

South Korea won:

February 1, 1989	$0.001463
February 2, 1989	.001463
February 3, 1989	.001464
February 6–8, 1989	.001464
February 9, 1989	.001465

FOREIGN CURRENCIES—Variances from quarterly rate for February, 1989 (continued):

South Korea won (continued):

February 10, 1989	$0.001467
February 13, 1989	.001469
February 14, 1989	.001469
February 15, 1989	.001471
February 16, 1989	.001473
February 17, 1989	.001473
February 21, 1989	.001474
February 22, 1989	.001474
February 23, 1989	.001476
February 24, 1989	.001476
February 27, 1989	.001478
February 28, 1989	.001480

Taiwan N.T. dollar:

February 1, 1989	$0.036101
February 2, 1989	.036114
February 3, 1989	.036127
February 9–10, 1989	.036140
February 13, 1989	.036153
February 14, 1989	.036163
February 15, 1989	.036153
February 16, 1989	.036140
February 17, 1989	.036010
February 21, 1989	.036075
February 22, 1989	.036023
February 23, 1989	.036023
February 24, 1989	.035997
February 27, 1989	.035971
February 28, 1989	.035958

(LIQ–03–01 S:NISD CIE)

Dated: March 7, 1989.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 89–39)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATE FOR FEBRUARY 1989

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per cen-

tum or more from the quarterly rate published in Treasury Decision 89–16 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday: Monday, February 20, 1989.

Australia dollar:

February 17, 1989	$0.823000
February 21, 1989	.810300
February 22, 1989	.820300
February 24, 1989	.823700
February 27, 1989	.796500
February 28, 1989	.798800

Austria schilling:

February 1, 1989	$0.076263
February 2, 1989	.075982
February 3, 1989	.075643
February 6, 1989	.075758
February 7, 1989	.076147
February 8, 1989	.075873
February 9, 1989	.076458
February 10, 1989	.076394
February 13, 1989	.075959

Belgium franc:

February 1, 1989	$0.025608
February 2, 1989	.025517
February 3, 1989	.025361
February 6, 1989	.025419
February 7, 1989	.025575
February 8, 1989	.025458
February 9, 1989	.025681
February 10, 1989	.025648
February 13, 1989	.025510

Denmark krone:

February 1, 1989	$0.137741
February 2, 1989	.137438
February 3, 1989	.136612
February 6, 1989	.136799
February 7, 1989	.137627
February 8, 1989	.137005
February 9, 1989	.138217
February 10, 1989	.137931
February 13, 1989	.137400
February 14, 1989	.138764

FOREIGN CURRENCIES—Variances from quarterly rate for February, 1989 (continued):

Denmark krone (continued):

February 15, 1989	$0.139373
February 16, 1989	.139353
February 21, 1989	.139353

Finland markka:

February 1, 1989	$0.230947
February 3, 1989	.230415
February 6, 1989	.229991
February 8, 1989	.230787

France franc:

February 1, 1989	$0.157530
February 2, 1989	.157183
February 3, 1989	.156446
February 6, 1989	.156397
February 7, 1989	.157332
February 8, 1989	.156924
February 9, 1989	.157978
February 10, 1989	.157853
February 13, 1989	.157134

Germany deutsche mark:

February 1, 1989	$0.536481
February 2, 1989	.535045
February 3, 1989	.532056
February 6, 1989	.532283
February 7, 1989	.535389
February 8, 1989	.534188
February 9, 1989	.537750
February 10, 1989	.537201
February 13, 1989	.534759

Ireland pound:

February 1, 1989	$1.427000
February 2, 1989	1.429000
February 3, 1989	1.419000
February 6, 1989	1.422000
February 7, 1989	1.430000
February 8, 1989	1.426500
February 9, 1989	1.434500
February 10, 1989	1.431500
February 13, 1989	1.428000

FOREIGN CURRENCIES—Variances from quarterly rate for February, 1989 (continued):

Italy lira:

February 1, 1989	$0.000732
February 2, 1989	.000732
February 3, 1989	.000727
February 6, 1989	.000730
February 13, 1989	

Netherlands guilder:

February 1, 1989	$0.475059
February 2, 1989	.473821
February 3, 1989	.471143
February 6, 1989	.471254
February 7, 1989	.474046
February 8, 1989	.472925
February 9, 1989	.476190
February 10, 1989	.476737
February 13, 1989	.473597

Portugal escudo:

February 1, 1989	$0.006523
February 2, 1989	.006498
February 3, 1989	.006498
February 6, 1989	.006506
February 7, 1989	.006515
February 8, 1989	.006515
February 13, 1989	.006532

Republic of South Africa rand:

February 16, 1989	$0.403226
February 17, 1989	.402739
February 22, 1989	.402010
February 23, 1989	.403551
February 24, 1989	.401929
February 27, 1989	.402414
February 28, 1989	.402739

Spain peseta:

February 1, 1989	$0.008467
February 2, 1989	.008442

Switzerland franc:

February 1, 1989	$0.631313
February 2, 1989	.630716
February 3, 1989	.625978
February 6, 1989	.626370
February 7, 1989	.630318
February 8, 1989	.628536

FOREIGN CURRENCIES—Variances from quarterly rate for February, 1989 (continued):

Switzerland franc (continued):

February 9, 1989	$0.633112
February 10, 1989	.631912
February 13, 1989	.629129

(LIQ–03–01 S:NISD CIE)

Dated: March 7, 1989.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 89–40)

MONETARY PENALTY IN LIEU OF SUSPENSION OF INDIVIDUAL BROKER'S LICENSE NO. 6483 ISSUED TO JAMES M. WOLTMAN

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that the Commissioner with the approval of the Secretary of the Treasury on February 23, 1989, pursuant to Section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111.81 of the Customs Regulations, as amended (19 CFR 111.81), has decided to accept payment of a $7,000 penalty in lieu of pursuing the suspension of broker's license No. 6483 issued to James M. Woltman.

Dated: March 17, 1989.

VICTOR G. WEEREN,
Director,
Office of Trade Operations.

[Published in the Federal Register, March 22, 1989 (54 FR 11863)]

19 CFR Parts 18.4, 24.13(b), 123.33

(T.D. 89–41)

AMENDMENT OF REGULATIONS CONCERNING SEALS ON RAILCARS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends section 123.33, Customs Regulations by eliminating the requirement that green in-transit seals be placed on rail shipments prior to their departure from Canada when the movement will be in-bond through the United States for return to Canada. The document also amends other sections of the Customs Regulations which refer to the section which is being eliminated. The requirement that these seals be used in all in-bond shipments from Canada through the United States was significantly modified by recent Customs Directives which permit the use of commercial shipper seals, or other accepted seals on such shipments. These changes are being made to conform the regulations to existing law or practice. They are nonsubstantive and essentially are procedural.

EFFECTIVE DATE: March 23, 1989.

FOR FURTHER INFORMATION CONTACT: Michele Struzzieri, Entry Rulings Branch (202–566–5356).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In response to inquiries from the public, and as part of a continuing program to keep its regulations current, the Customs Service has determined that certain of its regulations creating the requirement that in-transit seals be placed on rail cars prior to their departure from Canada are no longer required.

This decision was reached after reviewing Customs Directives which have been issued in recent years. Customs Directive No. 3270–02, dated June 11, 1985, addressed the sealing requirements for containerized cargo transported under Immediate Transportation procedures. That Directive mandates sealing for cargo moving *only* under Immediate Transportation entries. Selective sealing was permitted for those Immediate Transportation shipments which remained in the custody of the bonded landbridge carrier, or an air-carrier using TACM procedures.

This was superseded by a subsequent Customs Directive, 3270–04, dated November 10, 1987, which further delineated the Customs position on seals. This directive permits carriers participating in the Automated Manifest System (AMS) to move in-bond shipments under shipper's seals provided the seal number(s) is/are available within AMS. This directive also provides guidance and direction to

District Directors and Customs personnel responsible for carrying out the procedures to be followed for such shipments.

In order to accurately reflect current U.S. Customs policy regarding sealing requirements of railcars transiting the United States, it has been determined that it has become necessary to revise the Customs Regulations. Insofar as the regulations address specific types of seals and procedures, the following changes to the Customs Regulations are deemed necessary.

Green seals which had been required by § 123.33 (19 CFR 123.33) to be attached to railcars from Canada which transited the U.S. will no longer be mandated. In their place, Customs will accept commercial shipper seals and certain other Customs approved seals. For conformity, all references to those seals in §§ 18.4 and 24.13(b) (19 CFR 18.4 and 19 CFR 24.13(b)) will be deleted from the regulations.

Regulatory Flexibility Act

Since no notice of proposed rulemaking is required for these amendments, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, do not apply.

Executive Order 12291

Because this document will not result in a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory analysis and review prescribed by the E.O. are not required.

Public Notice Requirement

Inasmuch as this action constitutes an amendment to the Customs Regulations so that they conform to currently existing operational procedures and are a reflection of internal operating procedures within the Customs Service, and, as such, neither imposes any additional burdens on, nor takes away any existing rights from, the public, pursuant to 5 U.S.C. 553(b)(A), notice and public procedure are unnecessary, and, for the same reasons, pursuant to 5 U.S.C. 553(d)(2), a delayed effective date is not required.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 18

Customs Duties and Inspection, Common Carriers, Freight Forwarders, Railroads.

19 CFR Part 24

Customs Duties and Inspection.

19 CFR Part 123

Customs Duties and Inspection, Canada, Railroads, Freight, International Boundaries.

AMENDMENTS TO THE REGULATIONS

Parts 18, 24, and 123, Customs Regulations (19 CFR 18, 24, and 123) are amended as set forth below.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The general authority citation for Part 18 and the authority for § 18.4 continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1624.

§ 18.4 also issued under 19 U.S.C. 1322.

2. Section 18.4 is amended by revising the first sentence in paragraph (a)(1) to read as follows:

§ 18.4 Sealing conveyances and compartments; labeling packages; warning cards.

(a)(1) Conveyances or compartments in which carload lots of bonded merchandise are transported shall be sealed with commercial shipper seals, Customs red in-bond seals, or other accepted seals. High-security Customs seals will be required on carload or containerized shipments where the Customs officer reviewing the in-bond entry determines it is required to adequately protect the revenue and prevent violations of Customs laws. The bonded carrier will provide Customs with the necessary seals * * *.

* * * * * * *

PART 24—CUSTOMS ACCOUNTING AND FINANCIAL PROCEDURE

1. The general authority citation for Part 24 continues to read as follows:

Authority: 19 U.S.C. 58a–c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 31 U.S.C. 9701.

2. Section 24.13 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 24.13 Car, compartment, and package seals; kind, procurement.

* * * * * * *

(b) * * * Uncolored seals used to seal containers of commercial traveler's samples transiting the United States as provided by § 123.52 of this chapter shall be stamped "Canada-United States Customs" * * *.

* * * * * * *

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for Part 123 and the specific authority continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

Sections 123.31–123.34, 123.42, 123.52, 123.64 also issued under 19 U.S.C. 1553.

2. Section 123.33 is removed and reserved.

§ 123.33 [Removed and reserved.]

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: March 17, 1989.

SALVATORE R. MARTOCHE,
Assistant Secretary of the Treasury.

[Published in the Federal Register, March 23, 1989 (54 FR 11944)]

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 101

PROPOSED CUSTOMS REGULATIONS AMENDMENT RELATING TO THE CUSTOMS FIELD ORGANIZATION—FRONT ROYAL, VIRGINIA (VIRGINIA INLAND PORT)

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by establishing a customs port of entry at the Virginia Inland Port (VIP) near Front Royal in the Norfolk, Virginia, Customs District of the Southeast Region. The change is being proposed as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATE: Comments must be received on or before April 21, 1989.

ADDRESS: Comments (preferably in triplicate) should be submitted to and may be inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2119, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Joseph E. O'Gorman, Office of Inspection and Control (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

The Customs Service field organization currently consists of seven geographical regions further divided into districts with ports within each district. Customs ports of entry are locations (seaports, airports, or land border ports) where Customs officers or employees are assigned to accept entries of merchandise, collect duties, clear passengers, vehicles, vessels, and aircraft, examine baggage, and enforce the Customs, and related laws.

The Virginia Port Authority filed an application with Customs requesting establishment of a new Customs port of entry near Front Royal, Virginia. A review of the application therefor, and related

materials, has confirmed that the proposed port appears to meet the minimum Customs criteria for establishing ports of entry. The applicable standards, published as T.D. 82–37 in the Federal Register on March 9, 1982 (47 FR 10137), and modified by T.D. 86–14, published in the Federal Register on February 5, 1986 (51 FR 4559), and by T.D. 87–65, published in the Federal Register on May 4, 1987 (52 FR 16328), list 2,500 formal entries per year as the minimum potential Customs workload for establishing a port. T.D. 87–65 specifically requires a commitment by any applicant seeking port status by satisfying the cargo workload standard, to make optimal use of electronic data transfer capability to permit integration with Customs Automated Commercial System (ACS). The Virginia Port Authority has made this commitment.

The geographical limits of the proposed port of entry will specifically be defined by the metes and bounds of the VIP of the Virginia Port Authority, located near Front Royal, Warren County, Virginia, on U.S. Route 340 and 522.

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other change in ports of entry. Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department order No. 101–5, dated February 17, 1987 (52 FR 6282).

COMMENTS

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Customs Service. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4) and section 103.11(b) Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2119, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

EXECUTIVE ORDER 12291 AND REGULATORY FLEXIBILITY ACT

Because this document is related to agency management and organization, it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by that E.O. are not required. Although Customs is soliciting public comments, no notice of proposed rulemaking is required pursuant to 5 U.S.C. 553(a)(2). Accordingly, this document is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although the proposal may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits at Customs ports of entry in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Proposed Amendment

It is proposed to amend section 101.3, Customs Regulations (19 CFR 101.3), as follows:

1. The authority citation for Part 101 would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedules of the United States), 1624; Reorganization Plan 1 of 1965; 3 CFR 1965 Supp.

2. It is proposed to amend section 101.3(b) by inserting, "Front Royal, Va., as described in T.D. 89–." in appropriate alphabetical order in the column headed, "Ports of entry" in the Norfolk, Virginia, District of the Southeast Region.

William von Raab,
Commissioner of Customs.

Approved: March 16, 1989.
Salvatore R. Martoche,
Assistant Secretary of the Treasury.

[Published in the Federal Register, March 22, 1989 (54 FR 11742)]

United States Court of International Trade

One Federal Plaza

New York, N.Y. 10007

Chief Judge

Edward D. Re

Judges

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Joseph E. Lombardi

Decisions of the United States Court of International Trade

(Slip Op. 89–29)

BERNS & KOPPSTEIN, PLAINTIFF *v.* UNITED STATES, DEFENDANT

Court No. 86–09–01180

Oil-bearing niger seed imported from Ethiopia for use in the United States as bird seed is properly classifiable as "Oil-bearing nuts and seeds, not specially provided for" under item 175.57 of the Tariff Schedules of the United States.

[Judgment for plaintiff.]

(Decided March 13, 1989)

Fitch, King & Caffentzis (*Richard C. King*) for plaintiff.

John R. Bolton, Assistant Attorney General, *Joseph I. Liebman*, Director, Commercial Litigation Branch, Civil Division, United States Department of Justice (*Barbara M. Epstein*); *Theodore Y. Chong*, General Attorney, United States Customs Service (of counsel); for defendant.

DICARLO, *Judge:* Berns & Koppstein (the "importer") and the government each move for summary judgment under Rule 56 of the Rules of this Court to establish the proper tariff classification of niger seed imported from Ethiopia and used in the United States as bird seed. The Court has jurisdiction under 28 U.S.C. § 1581(a) (1982).

Niger seed is an oil-bearing seed. The issue before the Court is whether this oil-bearing seed is properly classifiable as "Oil-bearing nuts and seeds, not specially provided for" under item 175.57 of the Tariff Schedules of the United States (TSUS). Instead of looking to the plain words of this tariff provision, the government argues that a clear legislative intention supports the decision of the United States Customs Service (Customs) to follow earlier court decisions and classify the imported seed under item 127.10, TSUS, as "Garden and field seeds, not specially provided for" with duty at the rate of 1.5 cents per pound.

The Court finds that the earlier cases are no longer controlling because of amendments to the tariff statutes, and that there is no clear contrary legislative history to justify departure from a plain reading of the tariff provisions to classify the oil-bearing seeds as "Oil-bearing nuts and seeds, not specially provided for."

BACKGROUND

Niger seed has been defined as "the seed of ramtil that yields a valuable oil." *Webster's Third New International Dictionary* 1527 (1981). The seed has been more specifically described as an oil-bearing seed

> produced principally in India and Pakistan, and reportedly to some extent in the West Indies. In India and Pakistan the seed is crushed for the oil, which is used in cooking, for anointing the body, and for adulterating sesame and other higher priced oils. In the United States the imported seed, which comes from India and Pakistan, is used exclusively in feed mixtures for birds.

7 *Summaries of Tariff Information* 182 (1948).

The parties agree that (1) the imported merchandise is niger seed, (2) niger seed is an oil-bearing seed, (3) since at least 1960, niger seeds have been used in the United States as bird feed or an ingredient of bird feed, and that (4) the seed's germination level is 75% or above. The parties also stipulate that the imported seed meets the requirements of TSUS headnote 1, schedule 1, part 6, subpart B, because the niger seed does not consist of "seeds unfit for seeding purposes within the meaning of the Federal Seed Act," 7 U.S.C. § 1551–1610 (1982 & Supp. V 1987).

DISCUSSION

1. *Earlier Court Decisions on Niger Seed*

The tariff classification of niger seed has been considered twice by the predecessor courts to the United States Court of Appeals for the Federal Circuit. In the first case, *Woodhull* v. *United States*, 15 Ct. Cust. App. 288, T.D. 42471 (1927), the Court of Customs Appeals considered whether niger seeds had been correctly classified under paragraph 762 of the Tariff Act of 1922 as "other garden and field seeds, not specially provided for." The importer contended the tariff provision for "other garden and field seeds" was meant to cover those seeds of the class generally intended only for planting in gardens and fields. Because niger seeds are used in the United States for bird feed rather than planting in gardens and fields, the importer claimed the niger seed should be classified either as a vegetable substance or as a non-enumerated unmanufactured article.

The *Woodhull* court referred to a broad and definite proviso that "the provisions for seeds in this schedule shall include such seeds whether used for planting or other purposes," and concluded that seed was not required to be used for planting in order to be classified as garden and field seed. The court also observed that the fact that niger seed

> is or is not an oil-bearing plant will have little, if any, bearing in the premises, since it would seem that the history of the legislation, together with the context of the seed paragraphs of the tariff act of 1922, when compared with similar paragraphs of the act of 1913, is convincing that paragraph 762 was intended by Congress to cover this kind of merchandise.

Id. at 289–90. The court also noted that canary seed, used only for bird food, was also classifiable under the provision for field and garden seeds even though canary seed was not imported for planting in a field or garden. Because niger seed "serves, in this country, the exact purpose as that served by canary seed, * * * it would seem that it should receive the same treatment for tariff purposes." *Id.* at 291. The *Woodhull* court thus overruled the importer's protest against classification of niger seed as "other garden and field seeds, not specially provided for." *Id.*

In a second case considering niger seeds, an importer had claimed the proper classification was under "oil-bearing seeds and nuts: * * *, not specially provided for, when the oils derived therefrom are free from duty." The trial court rejected this claim because niger seed oil was not duty free. The Court of Customs and Patent Appeals affirmed this finding, rejected alternative classifications as "sunflower seeds" and "canary seeds," and followed *Woodhull* to hold again that niger seed was properly classifiable as "garden and field seeds not specially provided for":

> The question of whether niger seeds were included in the provision of paragraph 762 for "all other garden and field seeds" was exhaustively considered in the *Woodhull* case, and it was held that they were so included. We see no reason for changing the conclusion there reached, and it is unnecessary to discuss again that question.

Prunty Seed & Grain Co. v. *United States,* 18 CCPA 268, 270, T.D. 44429 (1930).

Although the issue before the Court would seem to have been squarely decided by *Woodhull* and *Prunty,* those cases were decided under a different statute than is involved here. Congress has changed the scope of the competing provisions involved, so that these earlier cases are no longer controlling. *See Rico Import Co.* v. *United States,* 60 CCPA 15, 20, C.A.D. 1075, 469 F.2d 699, 702 (1972); *United States* v. *American Brown Boveri Elec. Corp.,* 17 CCPA 329, 333, T.D. 43776 (1929).

The issue before the Court is whether niger seed is classifiable as "Oil-bearing nuts and seeds, not specially provided for" or "Garden and field seeds, not specially provided for." Unlike *Woodhull* and *Prunty,* the Court is faced with two competing "not specially provided for" tariff items.

2. *The Competing Tariff Provisions*

As the United States Court of Appeals for the Federal Circuit recently stated, in cases involving statutory construction:

> The starting point in every case involving construction of a statute is the language itself. Where the plain language of the statute would settle the question before the court, the legislative history is examined with hesitation to determine whether there is a clearly expressed legislative intention contrary to the statutory language. Sometimes the literal language of some part of a statute may seemingly contradict the intent of the statute taken as a whole. Absent a clear cut contrary legislative intent, the statutory language is ordinarily regarded as conclusive.

Madison Galleries, Ltd. v. *United States,* No. 88–1559, slip op. at 4–5 (Mar. 8, 1989) (citations omitted). Additionally, an imported article which is described in two or more provisions of the TSUS is classifiable in the provision which most specifically describes it. General Interpretive Rule 10(c), TSUS; *see e.g., Aceto Chem. Co.* v. *United States,* 59 CCPA 212, 220–21, C.A.D. 1069, 465 F.2d 908, 914 (1972).

A headnote to the subpart for the government's classification as "garden and field seeds, not specially provided for" provides that the "subpart covers garden and field seed *whether actually used for seeding or other purposes."* Schedule 1, part 6, subpart B, headnote 1, TSUS (emphasis added). It is, therefore, irrelevant that niger seeds are used in the United States as birdseed rather than for seeding. The same headnote to that subpart provides further that it does not cover seeds "unfit for seeding purposes within the meaning of the Federal Seed Act." Schedule 1, part 6, subpart B, headnote 1, TSUS. The importer admits, however, that the niger seed is not "unfit for seeding purposes within the meaning of the Federal Seed Act," 7 U.S.C. § 1551–1610 (1982 & Supp. V 1987). The imported niger seed thus satisfies each of the requirements of schedule 1, part 6, subpart B, headnote 1, TSUS.

A superior headnote in part 6 states, however, that part 6 (for live plants and seeds)

> does not cover all live plants and seed. Cereal grains, certain bulbs and other vegetables (such as potatoes, onions, garlic and beans), and certain seeds (such as spice seeds and *oil-bearing seeds) are provided for elsewhere* in this schedule * * *.

Schedule 1, part 6, headnote 1 (emphasis added).

Looking "elsewhere" in schedule 1, a headnote to subpart A of part 14 provides: "This subpart covers oil-bearing seeds and other oil-bearing vegetable minerals." Schedule 1, part 14, subpart A, headnote 1, TSUS. This headnote covers the importer's proposed classification under item 175.57, TSUS, as "Oil-bearing nuts and seeds, not specially provided for."

The government does not dispute that niger seed is an oil-bearing seed, even though oil is not extracted from the seeds in the United States. The government argues, however, that tariff provisions do not necessarily include everything which falls within their literal meaning, particularly where there is a clearly demonstrable, contrary legislative intent. *General Methods Corp.* v. *United States,* 59 CCPA 109, 112, C.A.D. 1049, 458 F.2d 521, 523 (1972); *United States* v. *Andrew Fisher Cycle Co.,* 57 CCPA 102, 107, C.A.D. 986, 426 F.2d 1308, 1311–12 (1970); *American Rusch Corp.* v. *United States,* 74 Cust. Ct. 153, 157, C.D. 4599, 394 F. Supp. 1402, 1405 (1975).

Legislative history can be a legitimate guide to a statutory purpose obscured by ambiguity, but without a clearly expressed legislative intent to the contrary, the plain language of the statute must ordinarily be regarded as conclusive. *United States* v. *Ron Pair Enterprises, Inc.,* 109 S. Ct. 1026, —— (1989); *Burlington N. R.R. Co.* v. *Oklahoma Tax Comm'n,* 481 U.S. 454, 461 (1987); *Madison Galleries, Ltd.* v. *United States,* No. 88–1559, slip op. at 5 (Mar. 8, 1989). Unless exceptional circumstances dictate otherwise, judicial inquiry is complete when the court finds the terms of a statute to be unambiguous. *Brookside Veneers, Ltd.* v. *United States,* 847 F.2d 786, 788 (Fed. Cir. 1988), *cert. denied,* 109 S.Ct. 369 (1988). The Court accordingly turns to the question of whether either of the competing provisions is ambiguous.

The government argues that examination of other seeds listed *eo nomine* under the heading "garden and field seeds" provides "strong, abundant and clear evidence" that Congress did not intend to exclude all spice seeds and oil-bearing seeds from part 6. The government specifically identifies "celery seeds" under item 126.21, TSUS. The government argues that because Congress provided *eo nomine* for "celery seeds" in the same subpart as "garden and field seeds, not specially provided for," notwithstanding the suggestion in schedule 1, part 6, headnote 1, TSUS, that spice and oil-bearing seeds are provided for in other parts, it is "obvious" that headnote 1 does not actually exclude all seeds capable of being used as a spice or bearing oil.

The government relies upon the following definitions of celery seed and celery-seed oil:

> celery seed *n:* minute seedlike fruits of a widely cultivated celery plant (*Apium graveolens*) that are dried for use as a condiment
>
> celery-seed oil *or* celery oil *n:* a colorless or yellowish essential oil with a celery odor and taste obtained from celery seeds and used chiefly as a flavoring agent

Webster's Third New International Dictionary 359 (1981). Celery seed is both a spice and an oil-bearing seed. K.T. Farrell, *Spices, Condiments, and Seasonings* 68–72 (1985). In addition to its use as a

condiment, celery seed is also used for bird seed. F. Rosengarten, Jr., *The Book of Spices* 177 (1969).

The government also relies upon the 1960 *Tariff Classification Study*. The court may refer to the *Tariff Classification Study* to resolve questions relating to the meaning and scope of terms in the tariff schedules. *Demuth Steel Prods. Co.* v. *United States,* 12 CIT ——, 688 F. Supp. 632, 635 (1988).

The *Tariff Classification Study* stated that "all the seeds in the existing provisions of paragraph 763 and 764 except canary seed and grain sorghum seed are in subpart B of this part." *Tariff Classification Study,* schedule 1, part 6, at 116 (1960). Niger seeds were then being classified as "garden and field seeds, not specially provided for" in paragraph 764. According to the government, the transfer of provisions under paragraph 764 to subpart B of schedule 1, part 6 suggests that Congress intended for niger seeds to continue to be classified as "garden and field seeds, not specially provided for."

The Court is unable to agree with the government that Congress evidenced any special intentions for the classification of niger seed. First, the Tariff Commission "received no oral presentation or written statement with respect to Part 6 of Schedule 1 of the revised tariff schedule." *Tariff Classification Study,* Explanatory and Background Materials, Schedule 1, at 89 n.1 (1960). Second, the then-existing administrative practice to classify niger seed as "garden and field seeds, not specially provided for" was based on the *Woodhull* and *Prunty* decisions, which no longer control the classification of niger seed. Third, the inclusion of celery seeds under "garden and field seeds" does not contravene the rule that absent any clear evidence of legislative intent contrary to the statutory language, the statutory language is conclusive. *Madison Galleries, Ltd.* v. *United States,* No. 88–1559, slip op. at 5 (Mar. 8, 1989). With two competing "not specially provided for" tariff items, the Court finds that "Oil-bearing seeds, not specially provided for" most specifically describes the oil-bearing niger seeds.

Conclusion

In the absence of clear Congressional intent to the contrary, the Court finds that from a plain reading of the tariff provisions oil-bearing niger seeds are properly classifiable as "Oil-bearing nuts and seeds, not specially provided for" under item 175.57, TSUS, and eligible for duty free entry.

(Slip Op. 89–30)

CITROSUCO PAULISTA, S.A., PLAINTIFF *v.* UNITED STATES, U.S. INTERNATIONAL TRADE COMMISSION, DEFENDANTS, AND ALCOMA PACKING CO., ET AL., DEFENDANT-INTERVENORS

Court No. 87–06–00703

[Remand determination is affirmed.]

(Decided March 13, 1989)

McDermott, Will & Emery (*Robert G. Kalik, William H. Barrett, Amy E. Hancock*) for Citrosuco Paulista, S.A.

Lyn M. Schlitt, General Counsel, *James A. Toupin*, Assistant General Counsel, (*Randi S. Field*) for the United States International Trade Commission.

DICARLO, *Judge:* Plaintiff Citrosuco Paulista, S.A. (Citrosuco) seeks review of the remand results ordered in *Citrosuco Paulista, S.A.* v. *United States*, 12 CIT ——, Slip Op. 88–176 (Dec. 30, 1988). On remand, the United States International Trade Commission (Commission) determined that an industry in the United States is threatened with material injury by reason of dumped imports from Brazil of frozen concentrated orange juice for manufacturing (FCOJM). *Frozen Concentrated Orange Juice From Brazil*, Inv. No. 731–TA–326 (Final) (Remand), USITC Pub. 2154 (Feb. 1989). The Court affirms the Commission's remand determination.

DISCUSSION

The facts are stated in *Citrosuco Paulista, S.A.* v. *United States*, 12 CIT ——, Slip Op. 88–176 (Dec. 30, 1988).

A. Fair-Value Brazilian Inventories

The Court remanded to the Commission to explain how or whether the Commission considered certain fair-value inventories of FCOJM in its analysis of threat emanating from inventories in Brazil. *Id.* at ——, Slip Op. 88–176 at 60.

On remand, five of the commissioners stated that they relied on revised data which excluded fair-value inventories in their examination of Brazilian inventories. The sixth commissioner did not consider Brazilian inventories to be material or relevant to his determination. This portion of the remand determination is affirmed.

B. United States Inventories

In the original determination, two commissioners stated that the total inventories of Brazilian FCOJM in the United States remained constant in 1986. This observation was based on incorrect total figures in the record. The Court remanded to the Commission to reconsider the significance of United States inventories in light of evidence that they were actually declining rather than remaining stable.

In their joint opinion on remand, Commissioners Eckes, Lodwick, and Newquist found threat of material injury to a domestic industry by reason of dumped imports. The commissioners stated that while the decline in United States inventories was fairly large, they "do not find this decline to be significant when taken into consideration with other relevant factors," and specifically increased inventories in Brazil. USITC Pub. 2154 at 4.

In their reply to the remand results, Citrosuco argues that this reliance on increased Brazilian inventories is contrary to law because 19 U.S.C. § 1677(7))F)(i)(V) (Supp. IV 1986) directs the Commission to consider "any substantial increase in inventories of merchandise in the United States." The Court already held that the Commission could consider inventories in Brazil "because large storage tankers obviated the need to store inventories in the United States." *Citrosuco Paulista*, 12 CIT at ——, 88–176 at 57. As stated in the prior opinion, "the provision directing the Commission to consider inventories in the United States does not preclude consideration of 'other relevant economic factors.'" *Id.*; 19 U.S.C. § 1677(7)(F)(i) (Supp. IV 1986).

The Court finds this portion of the remand determination to also be supported by substantial evidence on the record and according to law.

CONCLUSION

The Court affirms the Commission's remand determination. The action is dismissed.

(Slip Op. 89–31)

STANDARD CHLORINE CHEMICAL CO., INC., PLAINTIFF *v.* UNITED STATES, DEFENDANT

Court No. 84–11–01651

OPINION

[On classification of trichlorobenzene, judgment for the plaintiff.]

(Decided March 14, 1989)

Donohue and Donohue (*Joseph F. Donohue, Jr.* and *Russell W. MacKechnie, Jr.*) for the plaintiff.

John R. Bolton, Assistant Attorney General; *Joseph I. Liebman*, Attorney in Charge, International Trade Field Office, Commercial Litigation Branch, U.S. Department of Justice (*Kenneth N. Wolf*) for the defendant.

AQUILINO, *Judge:* The parties have filed a stipulation, setting forth all the salient facts, which makes appropriate their cross-motions for summary judgment as to Customs Service classification of two isomers of trichlorobenzene ($C_6H_3Cl_3$) under the mixture catch-all

provision for benzenoid chemicals rather than under the item covering trichlorobenzene *eo nomine.*

As imported from France, the merchandise was comprised of approximately 75 percent 1,2,4-trichlorobenzene and 25 percent 1,2,3-trichlorobenzene, with trace amounts of impurities possibly mixed in.[1] The parties agree, among other things, that the merchandise is a "cyclic organic chemical product in liquid form having a benzenoid structure and is not provided for in subparts A or C of part 1, schedule 4, TSUS"[2] and that it is marketed and sold as "trichlorobenzene, technical grade"[3].

Customs classified the merchandise under item 407.16, TSUS, a mixture basket provision, at a duty rate of 1.7 cents per pound plus 13.6 percent *ad valorem,* but not less than the highest rate applicable to any component material. The plaintiff argues for classification under item 402.72 as:

> Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A or C of this part * * *:
>
> Other * * *:
>
> Halogenated hydrocarbons:
>
> * * * * * * *
>
> Chlorobenzenes, mono-, di-, and tri-:
>
> * * * * * * *
>
> Other ..... 9.2% ad val.

As support for its position, the plaintiff offers the following line of argument:

> (1) a tariff term must be construed, in the case of a Schedule 4 provision, in accordance with its *scientific or technical meaning;* (2) an *eo nomine* tariff designation includes all forms of the article so described, and (3) an imported article described in more than one tariff provision must be classified under that which most *specifically* describes it.[4]

A tenet of tariff construction is that an *eo nomine* designation, "without limitations or a shown contrary legislative intent, judicial decision, or administrative practice to the contrary, and without proof of commercial designation, will include *all* forms of said article." *Nootka Packing Co.* v. *United States,* 22 CCPA 464, 470, T.D. 47464 (1935) (emphasis added). Relying on that case, the plaintiff reasons that trichlorobenzene, technical grade is a form of trichlorobenzene and therefore entitled to classification under the above *eo nomine* provision, item 402.72.

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[1] *See* Stipulation, para. 5. The numerical prefixes refer to locations of the chlorine atoms, ergo their juxtapositioning vis-a-vis the hydrogen atoms in the isomeric structures of trichlorobenzene. *Compare* Exhibit B *with* Exhibit C. *See also* Exhibit D.

[2] Stipulation, para. 22.

[3] *Id.,* para. 35.

[4] Plaintiff's Memorandum, p. 5 (emphasis in the original).

A review of that provision supports plaintiff's statement that the "merchandise is described in every particular by the various headings and subheadings that precede the claimed tariff provision". Plaintiff's Memorandum, p. 6. The language employed in the primary heading clearly contemplates a cyclic organic chemical product having a benzenoid structure, a description of the merchandise which the parties have stipulated. Inferior substantive headnotes provide "Halogenated hydrocarbons" and "chlorobenzene * * * tri-", respectively, again descriptive of the stipulated merchandise.

The court notes that item 402.72 references tri-chlorobenzene generically, with the individual isomers all falling within the description "chlorobenzene * * * tri-" rather than under specific items for each. *Cf. Austin Chemical Co., Inc.* v. *United States*, 11 CIT ——, ——, 659 F. Supp. 229, 234, *aff'd* 835 F.2d 1423 (Fed. Cir. 1987). Thus, the plaintiff argues that the tariff term "trichlorobenzene" includes a mixture of its isomers, citing for support 2 I. Mellan, Source Book of Industrial Solvents 185 (1957) and Kirk-Othmer, Encyclopedia of Chemical Technology 260 (2d ed. 1964).[5]

Tariff terms can be defined normally by their common or commercial meaning, but the legislative history underlying Schedule 4 manifests congressional intent that technical/scientific definitions control classification problems thereunder. *See, e.g., W.J. Byrnes & Co.* v. *United States*, 61 Cust. Ct. 423, 426–27, 294 F. Supp. 944, 946–47 (1988) (reviewing and construing the legislative history of Schedule 4). Plaintiff's references identify "trichlorobenzene" as a combination of the individual isomers; I. Mellan refers to it as a "mixture of the isomers 1,2,3-, 1,2,4-, and 1,3,5- trichlorobenzenes", while the Kirk-Othmer work describes trichlorobenzene as a "liquid mixture, containing approximately 85% 1,2,4-, 7.3% 1,2,3-, and small amounts of 1,3,5- trichlorodichloro-, and tetrachloro- benzenes". Although a third source defines technical grade as a form of 1,2,4- trichlorobenzene,[6] the court is persuaded that "trichlorobenzene" includes a mixture of its individual isomers.

Also persuasive is the conclusion reached by the Federal Circuit in *Austin Chemical Co.* v. *United States*, which affirmed a Court of International Trade determination that the *eo nomine* provision for mandelic acid, item 411.91, TSUS included individual isomers thereof. The CIT had determined that mandelic acid has three isomeric forms, to wit, D(–) and L(+) as well as DL, a combination of the other two isomers. The defendant, the same as here, had argued the *eo nomine* provision encompassed only the DL isomeric mixture and not the individual isomers. The CIT adopted a less restrictive reading of item 411.91 to include the individual isomers along with the DL isomeric mixture. *See* 11 CIT at ——, 659 F. Supp. at 234. The court of appeals affirmed, finding that

[5] *See generally id.* at 7–12.

[6] *See* The Condensed Chemical Dictionary 1041 (10th ed. 1981) ("1,2,4-trichlorobenzene * * * Grades: Technical; 99%; mixture of 1,2,4- and 1,2,3- isomers").

> "[m]andelic acid" is a comprehensive term, and there is no indication that Congress intended to exclude from it the D(–) isomer or to limit the term, as the government would do, to DL mandelic acid, which is comprised of an equal mixture of the D(–) and L(+) isomers. 835 F.2d at 1427.

In other words, an *eo nomine* provision for a chemical can cover a mixture of isomers thereof as well as the individual ones.

The defendant attempts to support the original classification by reciting a

> long line of cases [which] support [ ] the proposition that where separate tariff provisions exist for "mixtures" and for other enumerated products, an importation which consists of the mixture of the enumerated products is classifiable under the "mixtures" provision rather than under the provision for enumerated products.[7]

The feature which distinguishes those cases, however, is that, unlike in the case at bar where the separate trichlorobenzene isomers are individually dutiable under a single *eo nomine* provision, each of them pertained to a mixture of two or more separate and unique substances, each of which would have fallen within a specific and different *eo nomine* provision if imported alone. The mixtures of them, as imported, were beyond the scope of those specific provision(s), as opposed to the merchandise at bar, which is "neither more nor less than what is described by the *eo nomine* tariff provision", as stated in plaintiff's reply memorandum, page 4.

The defendant concludes from its review of the pertinent headnotes that "Congress demonstrated its legislative intention by specifically defining the terms 'compounds' and 'mixtures' in Schedule 4, Headnote 3, TSUS, for the express purpose of 'insur[ing] that the terms are uniformly interpreted' ". Defendant's Reply, p. 3, quoting Explanatory Notes, Schedule 4, *Tariff Classification Study*, p. 3 (1960). Congress, however, also demonstrated intent to limit the use of the term "compounds"[8] and the term "mixtures"[9] to "as used in this schedule", a delimitation not exercised by Congress when it adopted the controlling superior heading at issue herein. Instead, Congress chose "chemical products" to cover goods falling under the

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[7]Defendant's Memorandum, pp. 4–5, citing *United States* v. *Schenker's Inc.*, 15 Ct. Cust. Appls. 460, T.D. 42,645 (1928); *H.B. Thomas & Co.* v. *United States*, 51 Treas. Dec. 175, T.D. 42,000, *aff'd*, 15 Ct. Cust. Appls. 295, T.D. 42,473 (1927); *Nonnabo Chemical Co.* v. *United States*, 33 Treas. Dec. 61, T.D. 37,285, G.A. 8082 (1917); *Conron & Co.* v. *United States*, 8 Treas. Dec. 385, T.D. 25,646, G.A. 5805 (1904), *modified on other grounds sub nom. Wakem & McLaughlin* v. *United States*, 15 Treas. Dec. 228, T.D. 28,832, G.A. 6736 (1908).

[8]The term "means substances occurring naturally or produced artificially by the reaction of two or more ingredients, each compound—

(i) consisting of two or more elements,

(ii) having its own characteristic properties different from those of its elements and from those of other compounds, and

(iii) always consisting of the same elements united in the same proportions by weight with the same internal arrangement."

[9]The term "means substances consisting of two or more ingredients (i.e., elements or compounds), whether occurring as such in nature, or whether artificially produced (i.e., brought about by mechanical, physical, or chemical means), which do not bear a fixed ratio to one another and which, however thoroughly commingled, retain their individual chemical properties and are not chemically united. The fact that the ingredients of a product are incapable of separation or have been commingled in definite proportions does not in itself affect the classification of such product as a mixture."

headnote, as opposed to other headnotes where the term "compounds" is employed. *See, e.g.,* Headnotes to items 412.76 through 413.40, TSUS ("Aromatic or odoriferous compounds * * *"). Even the defendant concedes the phraseology adopted "cover[s] both compounds and mixtures." Defendant's Reply, p. 8. The defendant limits its interpretation, however, to isomeric mixtures specifically provided for *eo nomine,* and, as an example, it points to such provision for metaparacresol, an isomeric mixture of metacresol and paracresol. *See* item 402.28, TSUS.

No legislative evidence has been proferred to support this narrow construction here, however. Indeed, defendant's position is undercut by the specific congressional exclusion of isomeric mixtures from the purview of certain *eo nomine* provisions, such as item 405.44, TSUS, which provides for toluenediisocyanates (unmixed).

In sum, the court is persuaded that the merchandise at issue is a form of trichlorobenzene and thus within the scope of item 402.72, TSUS[10] and that judgment must therefore enter in favor of the plaintiff.

[10]The court notes in passing that General Headnote 7 on commingling of articles does not apply in that the individual trichlorobenzene isomers, which comprise the technical grade, are subject to the same rate of duty.

ABSTRACTED CLASSIFICATION

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	
				Item No. and rate	Item
C89/21	Re, C.J. March 2, 1989	Mepco/Electra, Inc.	82–5–00621	Item 685.90 6.9%, 7.3%, 7.7% or 8.1%	Item A Free
C89/22	DiCarlo, J. March 2, 1989	Famous Raincoat Co.	82–9–01280	Item 380.04 or 382.81 Various rates	Item 37 Vari
C89/23	DiCarlo, J. March 2, 1989	Famous Raincoat Co.	82–11–01539	Item 380.04 or 382.81 Various rates	Item 37 Vari
C89/24	DiCarlo, J. March 2, 1989	Famous Raincoat Co.	84–10–01466	Item 380.04 or 382.81 Various rates	Item 37 Vari
C89/25	DiCarlo, J. March 2, 1989	Famous Raincoat Co.	85–5–00636	Item 380.04 or 382.81 Various rates	Item 37 Vari

N DECISIONS

HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
No. and rate		
A685.90 e of duty	Texas Instruments, Inc. v. U.S., 681 F.2d 778 (1982) and The Torrington Co. v. U.S., 764 F.2d 1563 (1985)	Miami Relays
376.56 ious rates	A.N. Deringer, Inc. v. U.S., C.D. 4218 (1971); Izod Outerwear v. U.S., S.O. 85–72 (1985); H. Rosenthal v. U.S., C.D. 4769, aff'd 609 F.2d. 999 (1979); Pacific Trail Sportswear v. U.S., S.O. 88–28 (1988)	New York Women's, girls' or infants' wearing apparel, etc.
376.56 ious rates	A.N. Deringer, Inc. v. U.S., C.D. 4218 (1971); Izod Outerwear v. U.S., S.O. 85–72 (1985); H. Rosenthal v. U.S., C.D. 4769, aff'd 609 F.2d. 999 (1979); Pacific Trail Sportswear v. U.S., S.O. 88–28 (1988)	New York Women's, girls' or infants' wearing apparel, etc.
376.56 ious rates	A.N. Deringer, Inc. v. U.S., C.D. 4218 (1971); Izod Outerwear v. U.S., S.O. 85–72 (1985); H. Rosenthal v. U.S., C.D. 4769, aff'd 609 F.2d. 999 (1979); Pacific Trail Sportswear v. U.S., S.O. 88–28 (1988)	New York Women's, girls' or infants' wearing apparel, etc.
376.56 ious rates	A.N. Deringer, Inc. v. U.S., C.D. 4218 (1971); Izod Outerwear v. U.S., S.O. 85–72 (1985); H. Rosenthal v. U.S., C.D. 4769, aff'd 609 F.2d. 999 (1979); Pacific Trail Sportswear v. U.S., S.O. 88–28 (1988)	New York Women's, girls' or infants' wearing apparel, etc.

ABSTRACTED CLASSIFICATION D

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	
				Item No. and rate	
C89/26	DiCarlo, J. March 2, 1989	Famous Raincoat Co.	87-2-00331	Item 380.04 or 382.81 Various rates	It
C89/27	DiCarlo, J. March 2, 1989	Famous Raincoat Co.	87-8-00889	Item 380.04 or 382.81 Various rates	It
C89/28	Restani, J. March 9, 1989	Delco Electronics	86-4-00449	Item 685.21, 685.23, 685.23 685.12 Various rates	It

DECISIONS — Continued

HELD Item No. and rate	BASIS	PORT OF ENTRY AND MERCHANDISE
Item 376.56 Various rates	A.N. Deringer, Inc. v. U.S., C.D. 4218 (1971); Izod Outerwear v. U.S., S.O. 85–72 (1985); H. Rosenthal v. U.S., C.D. 4769, aff'd 609 F.2d. 999 (1979); Pacific Trail Sportswear v. U.S., S.O. 88–28 (1988)	New York Women's, girls' or infants' wearing apparel, etc.
Item 376.56 Various rates	A.N. Deringer, Inc. v. U.S., C.D. 4218 (1971); Izod Outerwear v. U.S., S.O. 85–72 (1985); H. Rosenthal v. U.S., C.D. 4769, aff'd 609 F.2d. 999 (1979); Pacific Trail Sportswear v. U.S., S.O. 88–28 (1988)	New York Women's, girls' or infants' wearing apparel, etc.
Item 685.29 685.32 Various rates	Delco Electronics v. U.S., S.O. 87–109 (1987)	Chicago Circuit boards for automobile radios

Index

Customs Bulletin and Decisions
Vol. 23, No. 14, April 5, 1989

U.S. Customs Service

Treasury Decisions

Proposed Rulemaking

U.S. Court of International Trade

Slip Opinions

Abstracted Decisions

*U.S. G.P.O. 1989-241-040:80032